

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LAUREL KEENAN-CONIGLIO,
et al.,

Plaintiffs,

v.

Civ. No. 23-1051 LF/KK

CUMBRES & TOLTEC SCENIC
OPERATING COMMISSION, *et al.*,

Defendants.

ORDER FINDING GOOD CAUSE TO DELAY

Pursuant to Federal Rule of Civil Procedure 16(b)(2) and following a *sua sponte* review of the record, the Court FINDS that there is good cause to delay entering a scheduling order in this matter pending resolution of Defendants Cumbres & Toltec Railroad Commission and Cumbres Toltec Operating, LLC's Motion to Dismiss (Doc. 15), filed April 25, 2024. In this motion, the institutional Defendants argue, among other things, that Plaintiffs have failed to join indispensable parties whose joinder would destroy the Court's subject-matter jurisdiction, and that the Court lacks jurisdiction over Plaintiffs' claims against them under 42 U.S.C. § 1983 because they are entitled to absolute Eleventh Amendment immunity from these claims. (*Id.* at 12-21.)

The Court notes that the individual Defendants have also filed a motion to dismiss, in which they raise the defense of qualified immunity. (Doc. 16 at 18-21.) In general, a defendant who asserts the defense of qualified immunity in a dispositive motion is entitled to a stay of discovery until the immunity issue is resolved. *Workman v. Jordan*, 958 F.2d 332, 336 (10th Cir. 1992). If the individual Defendants wish for the Court to stay discovery pending resolution of their motion to dismiss, they should file a properly supported motion seeking such relief.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kirtan Khalsa". The signature is fluid and cursive, with the first name "Kirtan" and last name "Khalsa" clearly distinguishable. It is positioned above a horizontal line.

KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE